IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23750 of 2004

Between:

Smt. T. Vijaya Bharathi, W/o. T. Venkata Siva Reddy,
Koduru Village, Kondapuram mandal, kadapa District.

..... PETITIONER

AND

1 The Joint Collector, ' Kadapa, Kadapa District.
2 The Revenue Divisional Officer, Jammalamadugu,
Kadpa District.
3 The Mandal Revenue Officer, Kondapuram Mandal, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order, or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing the impugned proceedings vide L.Dis.No. I(3)/3176/2004, dt. 10.11.2004 in confirming the orders of the 2nd respondent in suspending the authorization of the petitioner pending enquiry and inaction of the 2nd respondent in not completing the enquiry initiated by him as illegal, arbitrary and against the principles of natural justice consequently direct the respondents to permit the petitioner to continue as Fair Price Shop Dealer pending disposal of the enquiry before the 2nd respondent in the interest of justice.

Counsel for the Petitioner: MR.N.PARAMESWARA REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following:

ORDER:

-

Petitioner was appointed as a dealer of the fair price shop about fifteen years back. Through proceedings, dated 11.10.2004, the 2nd respondent suspended the authorization of the petitioner alleging certain irregularities. Aggrieved thereby, petitioner preferred an appeal before the 1st respondent. The appeal was disposed of on 10.11.2004. The 1st respondent took the view that no interference is called for with the order of suspension, since it is an interim measure. He directed the 2nd respondent to dispose of the case, within four weeks. Petitioner challenges the order of the appellate authority.

Heard the learned counsel for the petitioner and the learned Government pleader for Civil Supplies.

The authorization of the petitioner was suspended on the allegations, such as, the petitioner was selling the commodities at a higher price; that there was short supply of commodities, and she was running the fair price shop only for five days in a month. Allegations were also made to the effect that she was not using proper weighments for the past fifteen years and that she did not issue kerosene to five pink card holders since four years. The 1st respondent refused to interfere with the order of suspension on the ground that it is an interim measure. When an appeal is provided against the order of suspension imposed as interim measure, the 1st respondent ought to have examined the matter to satisfy himself as to the legality or propriety of the same. In a sense, the 1st respondent has refused to exercise the jurisdiction. The same is impermissible in law. This Court would not have interfered, had it been a case where the 1st respondent examined the matter and arrived at a conclusion that the order of suspension is proper.

On a *prima facie* consideration of the order of suspension, it is evident that vague and general allegations, such as, the petitioner using improper weighments for the past fifteen years, were pressed into service. Even if the petitioner was found to be conducting the business for the past so many years in that particular manner, it constitutes a reflection on the functioning of the officials also. The truth or otherwise of the allegations against the petitioner needs to be considered at the enquiry. The 1st respondent has already directed the 2nd respondent to conclude the same within four weeks. This Court is of the view that no harm, as such, would be caused, in case, the petitioner is permitted to function, till the enquiry is concluded.

Hence, the writ petition is disposed of directing that the petitioner shall be entitled to continue as fair price shop dealer, till the disposal of the proceedings by the 2nd respondent, and the order of suspension shall stand accordingly stayed till then. No order as to costs.

_____

L.NARASIMHA REDDY, J

Dated : 21st December, 2004

Ts

To

1 The Joint Collector, ' Kadapa, Kadapa District.
2 The Revenue Divisional Officer, Jammalamadugu,
Kadpa District.
3 The Mandal Revenue Officer, Kondapuram Mandal, Kadapa District.

4 2 CCs to the G.P. for Civil Supplies, High Court of A.P., Hyderabad (OUT).

5 2 CD copies.